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OGC 77-1530

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9 March 1977

Executive Registry

77-6187/4

MEMORANDUM FOR: Director of Central Intelligence

THROUGH: Deputy Director of Central Intelligence

FROM: Anthony A. Lapham
General Counsel

SUBJECT: Senate Select Committee on Intelligence Reporting
Procedures

1. At his confirmation hearing last June, Mr. Knoche committed himself to give the Senate Select Committee on Intelligence (SSCI) reports similar to the reports submitted to the Intelligence Oversight Board (IOB) by the CIA Inspector General and General Counsel. You made an equivalent commitment at your own confirmation hearing, transcript pages 88-89.

2. The arrangements we proposed to the SSCI in this regard are spelled out in a letter from Mr. Knoche to Senator Inouye dated 21 January 1977, a copy attached at Tab A, and a copy of Senator Inouye's reply, dated 3 March 1977, indicating basic acceptance of our proposals, is attached at Tab B. Pursuant to these arrangements the Inspector General and I have prepared separate reports to the SSCI, covering in summary form all items discussed in our several separate reports to the IOB during the period 30 June 1976 through 31 January 1977. These draft reports to the SSCI have been sent both to Bob Lipshutz, Counsel to the President, and Dave Aaron of the NSC Staff for their review on the President's behalf. Copies of my covering letter to Mr. Lipshutz, and the two draft reports, are attached at Tab C. You will note that, in Senator Inouye's letter to you of 3 March, he asks for notification in the event the President instructs you not to report any particular activity to the SSCI.

3. We have had word through the NSC Staff that Mr. Brzezinski believes you should describe the Agency's reporting arrangements with the SSCI, and the background of those arrangements, at your next meeting with the President. Obviously it would be difficult to withdraw from these arrangements given the confirmation hearing commitments given by both you and Mr. Knoche.

4. I am preparing for your signature a reply to Senator Inouye's letter of 3 March.

/s/ Anthony A. Lapham

Anthony A. Lapham

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Attachments

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Original - Addressee

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

March 3, 1977

IN REPLY PLEASE
REFER TO R#6693

Adm. Stansfield Turner
Director of Central Intelligence
Central Intelligence Agency
Washington, D. C. 20505

Dear Adm. Turner:

I am writing in response to Deputy Director Knoche's letter to me of 21 January 1977.

That letter set out his proposal for reports to the Senate Select Committee on Intelligence on CIA activities that raise questions of legality or propriety. While I believe the proposal provides a sensible basic procedure, there are several things about it which concern me.

Under Mr. Knoche's proposal, it is possible that the Senate Select Committee would never be informed of certain activities referred to the Intelligence Oversight Board. This would be the case if the President ordered the Central Intelligence Agency not to report such activities to the Congress. Under S. Res. 400 of the 94th Congress, 2d Session, the Senate expressed its sense that "the head of each department and agency of the United States would keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency". Given such a charge it is necessary for the Senate Select Committee to request that should the President order you not to report on a particular activity to the Senate Select Committee that you report that instruction to the Senate Select Committee. The Senate Select Committee and the Senate can then address its inquiries directly to the President.

I believe that the thirty day maximum withholding period described in the letter is a reasonable proposal. I assume, of course, that whenever possible reports would

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be made before the thirty days elapsed. It is clear that certain matters, particularly those whose disclosure would be damaging or embarrassing, should be brought immediately to the attention of the Senate Select Committee. The Senate Select Committee's report on [] will, I believe, make clear the Committee's belief that the failure to bring such matters as this to the attention of the Select Committee should not occur again; similarly, the Committee should be apprised in the future of questionable activities in a timely manner.

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Under Mr. Knoche's proposal, the Committee would be provided a quarterly report on the number of possible criminal offenses reported to the Department of Justice and the number closed out by Department of Justice decisions to prosecute or not to prosecute. The Committee has no desire to impede Department of Justice investigations or to interfere with the rights of Americans. There may be in the future, however, instances where the Committee must be told of ongoing investigations, disclosure of which would be damaging or embarrassing. This has been done in the past and the Committee expects that it will continue to be done in the future, supplemented by the reports described in Mr. Knoche's letter. Disclosure of these investigations to the Committee need not be in elaborate detail; notification that an allegation has been referred to the Attorney General, with a brief description of the issue, will in most cases be sufficient. The Senate Select Committee or the Senate will then be able to address more detailed further inquiries to the Attorney General.

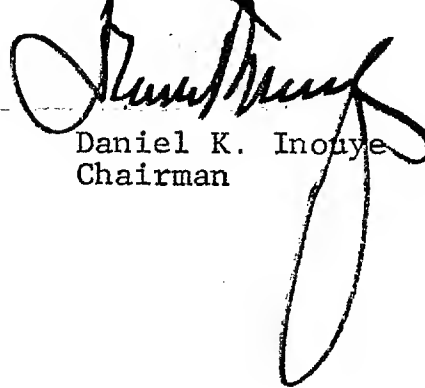
Finally, under Executive Order 11905, the Inspector General and General Counsel of the CIA are required to notify the Intelligence Oversight Board if their reports are blocked or if they are refused access to information. In order to meet the responsibilities mandated by S. Res. 400 to oversee the intelligence community, the Senate Select Committee has a similar requirement that both the Inspector General and the General Counsel report any such interference with their work to the Committee.

I believe that the suggested additions to Mr. Knoche's

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constructive proposal are in the best interests of the Central Intelligence Agency, the national intelligence community as a whole, and the Senate Select Committee on Intelligence.

Aloha,

A handwritten signature in dark ink, appearing to read "Dan Inouye", with a large, sweeping flourish extending downwards and to the right.

Daniel K. Inouye
Chairman

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Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		X		
2	DDCI	X			
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC	X			
10	LC		X		
11	IG		X		
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
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22					
SUSPENSE		Date			

Remarks:

To 2 and 9: Found the attached on my desk after our discussion of this general topic during this morning's staff meeting.

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Hank 28 Feb. 1977 *W*

Ben: This is another example of the Agency's getting out in front of the White House. Here is part of a CIA paper going to the Senate Select Committee on what the CIA has reported to the IOB (including several items which pre-date the E. O. requiring this reporting). There are a number of things here of which Dr. Brzezinski probably is not aware. Even when the IOB reported things to the President, at least in the previous Administration, it did not go through the Assistant to the President for National Security Affairs. I think the DCI should be concerned that Senator Inouye or other SSC member may query Dr. Brzezinski or the President about an item of which they are not aware.

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